Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

COMMENTS OF COMSPANUSA

Lisa F. Rackner
McDowell & Rackner PC
520 SW 6th Avenue, Suite 830
Portland, OR 97204
(503) 595-3925

Counsel for ComspanUSA

May 31, 2007

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

COMMENTS OF COMSPANUSA

ComspanUSA ("Comspan") files the following Comments in response to the Public Notice issued by the Federal-State Joint Board on Universal Service ("Joint Board") in this docket on May 1, 2007.[1]

I. INTRODUCTION

Comspan is a wireline competitive local exchange carrier ("CLEC") and a competitive eligible telecommunications carrier ("CETC") delivering broadband voice, data, and video services to rural communities and small towns in the state of Oregon. Through its state-of-the-art fiber-to-the-home ("FTTH") networks, Comspan is fulfilling the central goals of the Telecommunications Act of 1996 (the "Act")[2] by bringing competition, higher quality services, lower prices, and the rapid deployment of innovative telecommunications technologies to Oregon markets.[3] And significantly, Comspan is directly addressing the universal service goals of the Act by delivering these services to those high-cost areas of the state that have largely been ignored by the incumbent local exchange carriers ("ILECs") and the local cable companies.[4]

---

[1] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Public Notice, FCC 07J-2 (released May 1, 2007).

[2] 47 U.S.C. § 251 et seq.

[3] *Id.*

[4] *See generally, id.* § 254(b).

Comspan has already completed FTTH networks in two Oregon cities and has plans to build networks in an additional ten small towns and rural communities throughout the state *within the next year*. However, Comspan cannot fund the substantial capital needs of these fiber builds without support from the federal universal service fund (the "Fund").[5] Accordingly, if the temporary caps recommended by the Joint Board in its May 1, 2007 Recommended Decision[6] are adopted by the Federal Communications Commission (the "FCC"), Comspan's expansion plans will be stopped in their tracks, and citizens in Oregon's underserved communities will be denied precisely those benefits and services that the Act was intended to promote.

Comspan recognizes that the Fund is growing at an unsustainable pace and that reform is necessary. However, broadband wireline carriers such as Comspan are the solution—not the problem. These carriers are serving high-cost communities in efficient and effective manners and are responsible for a tiny fraction of fund disbursements.[7] If the FCC adopts a permanent solution that eliminates carriers such as Comspan from the marketplace—if the FCC denies carriers such as Comspan equal access to the same high-cost support as is available to the incumbents—it will have sacrificed the goals of the Act in order to achieve a quick, and ultimately ineffective, fix.

For these reasons, Comspan urges the Joint Board to adopt recommendations for reforming the universal service mechanisms that preserve the ability of competitive ETCs to continue to draw support from the Fund on the same terms as the ILECs, and that encourage the provision of advanced services to all citizens.

---

[5] Comspan is also certified to and does receive support from the Oregon Universal Service Fund.

[6] *See Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (released May 1, 2007).

[7] As pointed out by General Communications, Inc. in its letter to Commissioners Tate and Baum, filed in this docket April 13, 2007, wireline CETC support accounts for just .45% of the High Cost Fund.

II. COMSPANUSA

A. History of the Company

Comspan is a wireline competitive local exchange carrier headquartered in Roseburg, Oregon—a small town in Southern Oregon. Comspan was formed in 2002 by a group of local entrepreneurs intent on providing a competitive alternative to the incumbent local exchange carrier, Qwest Communications ("Qwest"). Five years later, Comspan provides local exchange and long distance service to a significant percentage of the households in Roseburg, and in the neighboring communities of Sutherlin and Winston as well.

Based on its experience in Roseburg, Comspan became convinced that it could offer advanced telecommunications services to Oregonians living in small towns throughout the state, and that it could offer these services at affordable prices. In order to realize its plan, Comspan teamed up with the LTS Group of Companies ("LTS"), which serve the telecommunications, utilities, and industrial sectors in Canada and the United States. LTS's network development arm specializes in system designs and development of "triple play" networks, delivering voice, data, and television services. Together, the two companies have embarked on an ambitious plan to construct, deploy and manage FTTH networks in small towns and rural areas throughout Oregon. LTS has since purchased Comspan, lending the company LTS's significant financial strength and technical expertise.

B. Bandon and Coquille

After some preliminary market research, Comspan chose to deploy its first FTTH network in Bandon, Oregon. Bandon is a town with a population of approximately 3,100 residents located on the Southern Oregon coast, and Comspan's preliminary market research revealed that it was an underserved area. Although the local ILEC did advertise DSL services, Comspan received reports that approximately 50% of the households lived too far from the ILEC central office to be eligible for DSL. And the local

cable company made it known that it had no plans to upgrade its network to allow it to offer broadband services to Bandon for another 20 years.[8] For these reasons, Comspan determined that Bandon was a perfect spot to test its market strategy.

Comspan broke ground on the project in February 2006, and turned up its first customer in August 2006. The Bandon network is built around a central office and video head-end located in Bandon, connected to approximately 90% of the households in Bandon via Comspan's passive optical network ("PON"). Over this state-of-the-art architecture, Comspan offers Bandon's citizens not only basic local exchange and long distance service, but high speed data[9] and video as well. And Bandon's citizens have welcomed Comspan's services with open arms. In less than a year, Comspan now serves a full 35 percent of the households in Bandon, and is gaining new customers every day. By mid-summer, the company expects to achieve a 50% market share and a 65% market share within two years.

Once the network in Bandon was completed, Comspan immediately began building in Coquille—a slightly larger town of approximately 5,000, located about 17 miles away. Like Bandon, Coquille residents had few choices when it came to broadband services. The local ILEC offers DSL but only to those households close in to the central office, while the local cable company neither offers nor has plans to offer broadband services in the foreseeable future. It is not surprising, then, that Comspan has had remarkable success "preselling" its services in Coquille. The company will be turning up its first customers in Coquille in June of this year.

Based upon its success in Bandon and Coquille, in the next 12 months Comspan is planning to begin building FTTH networks in an additional 10 small towns located across the state.

---

[8] Since that time, the cable company is now estimating it will be in a position to provide broadband services in 3, not 20, years.

[9] Comspan's network offers commercial data speeds of up to 7 mbps, with technical capabilities of 100 mbps.

C. The Role of Universal Service Funding in Comspan's Plans

Small towns like Bandon and Coquille are significantly less dense than mid-to-large cities, and are therefore costlier to serve. Moreover, because the customer pool is small, it is impossible to achieve the same economies of scale associated with cities with larger populations. Thus, from the beginning, Comspan has depended on anticipated support from the state and federal universal service funds in order to build its FTTH networks. Accordingly, Comspan applied for and received federal ETC status in Bandon and Coquille in order to use the relatively modest, but not insignificant funding to help to pay for the infrastructure essential for the delivery of basic voice services in those communities. It has also applied for ETC status in the nearby communities of Reedsport, Veneta, Myrtle Creek and Oakridge, and will file additional applications as it prepares to build out additional cities.

Thus, the continued availability of Fund support is critical to Comspan's ability to deliver its advanced services to underserved communities throughout Oregon. Indeed, if universal service funding becomes unavailable to Comspan, or if it is significantly diminished from current levels, Comspan will be unable to complete its expansion plans beyond those communities it is currently serving. The elimination of CETCs such as Comspan—who are providing advanced broadband services—would constitute a real loss to consumers in small towns and rural communities who will otherwise have only limited (if any) access to broadband. Indeed, wireline broadband CETCs like Comspan, more than those of any other class of ETC, serve the goals of the Act and should be ensured continued Fund support:

- *First, Comspan is bringing new technologies to small towns and rural areas.* The Act specifically declares: "Access to advanced telecommunications and information services should be provided in all regions of the nation."[10] By providing state-of-the-art, fiber-based voice,

[10] 47 U.S.C. § 254(b).

video and high-speed data, Comspan is doing precisely that—and importantly, Comspan is delivering these new technologies in areas of the country that would not otherwise receive these services. And the benefits of these services can make a remarkable difference in these communities. The availability of true broadband brings with it opportunities for advances in healthcare through telemedicine applications, educational opportunities through e-learning applications, and economic development.

- *Second, Comspan encourages competition in small towns and rural areas.* In adopting the Act, Congress did not call for a two-tier society that promotes competition in large urban markets, while monopolies retain their grasp on Americans living in small towns. On the contrary, Congress envisioned that all Americans would reap the benefits of competition in local telecommunications markets. Comspan is fulfilling the Act's vision of competition for rural Americans.
- *Third, Comspan services compete head to head with and serve as complete substitutes for ILEC services.* That is, when a consumer purchases Comspan service, that consumer will drop the ILEC service. Thus, the support provided to CETCs such as Comspan would not cause the fund to increase at all if the current system did not provide continued support to the ILEC even after the ILEC loses the customer.

Comspan understands the Joint Board's concern about size of the Fund and its desire to adopt immediate measures to halt its growth. However, in penalizing carriers such as Comspan, the caps proposed in the Recommended Order will achieve the Joint Board's goals at too great a cost. For these reasons, Comspan urges the Commission to recommend a long-term solution to the growth of the fund that allows wireline

broadband providers such as Comspan continued and equal access to universal service funding.

III. RESPONSE TO PROPOSALS

As a small carrier, Comspan has not had the resources to fully analyze the mechanisms on which the Joint Board has requested comments. However, Comspan offers the following general responses to the more significant aspects of the proposals.

A. Reverse Auctions

Comspan does not generally favor reverse auctions as a method for determining support. Moreover, Comspan specifically opposes any auction mechanism that would produce a single winner, and thereby, in effect, eliminate competition altogether from high-cost areas.

The Act expressly rejects the previously-held belief that telecommunications services are natural monopolies, best delivered by a single incumbent carrier. In drafting the Act, Congress instead offered the vision of a vibrant marketplace in which carriers compete with one another to bring to customers the latest technological innovations at the lowest cost. And while universal service remains an equally important goal, it was never intended to be furthered at the cost of competition. On the contrary, competition and new technologies were expected to further the goals of universal service as "competition and new technologies will greatly reduce the actual costs of providing universal service over time."[11]

Significantly, Comspan's own experience in Bandon illustrates just how effective competition can be, even in rural areas, at spurring the provision of advanced technologies. As mentioned above, before Comspan announced its intention to enter the Bandon market, the local cable provider had no intention of upgrading its facilities to allow it to offer broadband services for twenty years. After having lost significant market

[11] Telecommunications Competition, S. Rep. No. 104-23 at 26 (1996).

share to a competitor, that same company is now estimating that it will be able to provide Bandon with cable modem services in three years.

Comspan's experience has shown that multiple ETCs can be supported in most wire centers. There is no reason to deprive customers in high-cost areas the benefits of competition.

B. GIS Technology, Network Modeling and Disaggregation

Comspan generally supports modeling methods that allow for more granular cost analysis so that support levels can be better targeted to encourage deployment in the highest cost areas. For this reason, Comspan supports more advanced modeling technologies, if they can be employed and applied on a cost-effective basis and without excessive administrative burden.

Similarly, Comspan believes that all carriers should be required to disaggregate support—to the wire center level. Disaggregated support will eliminate concerns about cream-skimming and provide carriers with the correct economic incentive to build facilities where they are most needed.

C. Competitive ETC Support

Comspan is continuing to study the merits of symmetrical support (versus support based on each carrier's "own costs") and looks forward to commenting on the competitive ETC support proposals in more detail in the future. That said, whatever method used to calculate the appropriate levels of support, the method of distribution must be competitively neutral. For this reason Comspan urges the Joint Board and the Commission to adopt a support mechanism that provides entirely portable support to CETCs and ILECs alike.

There is no economic rationale to continue to distribute any portion of ILEC funding on a lump sum basis. All support to all carriers should be on a per line basis and should be paid to carriers only for those lines on which they are currently providing

service. If complete portability of funding is adopted, wireline CLEC participation in the fund will not increase the size of the fund.

D. Broadband Support

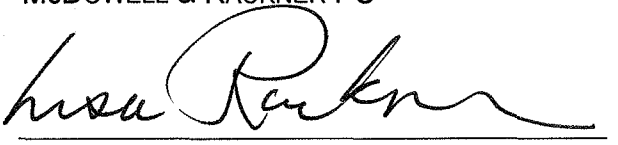
Comspan believes that any reform mechanism adopted should favor those carriers that will bring broadband services to high-cost areas.

IV. CONCLUSION

Comspan appreciates this opportunity to comment on the Joint Board's proposals and looks forward to providing additional comments in the future.

Respectfully submitted this 31st day of May, 2007.

McDOWELL & RACKNER PC



Lisa F. Rackner

Counsel for ComspanUSA